

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

BRANDI ALISHA TESCH, and
JIMMY DELL CARTER,

Civil 05-699 (JRT/FLN)

Plaintiffs,

REPORT AND RECOMMENDATION

v.

APRIL MARIE NOVOTNY,

Defendant.

Plaintiffs commenced this action on April 6, 2005, by filing a self-styled complaint, and an application seeking leave to proceed in forma pauperis, ("IFF"). (Docket Nos. 1 and 2.) The Court previously examined those submissions and determined that (a) Plaintiffs' pleading is defective because it does not show that federal subject matter jurisdiction exists, and it does not state an actionable claim for relief, and (b) Plaintiffs' IFP application is incomplete. The Court therefore entered an order dated April 13, 2005, which informed Plaintiffs that their IFP Application would be "denied without prejudice." (Docket No. 3.) The order gave Plaintiffs an opportunity to file an Amended Complaint, as well as an Amended IFP Application. The order also expressly advised Plaintiffs that if they did not file an Amended Complaint and an Amended IFP Application within twenty (20) days, the Court would recommend that this action be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b).

The deadline for complying with the Court's prior order has now passed, and Plaintiffs have not satisfied the requirements of that order. In fact, Plaintiffs have not communicated with the Court at all since they commenced this action. Therefore, it is now

recommended, in accordance with the Court's prior order, that Plaintiffs be deemed to have abandoned this action, and that the action be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b). See Link v. Wabash Railroad Co., 370 U.S. 626, 630-31 (1962) (recognizing that a federal court has the inherent authority to "manage [its] own affairs so as to achieve the orderly and expeditious disposition of cases").

Based upon the above, and upon all the records and proceedings herein,

IT IS HEREBY RECOMMENDED that:

This action be **DISMISSED WITHOUT PREJUDICE**.

Dated: May 9, 2005

s/ Franklin L. Noel
FRANKLIN L. NOEL
United States Magistrate Judge

Pursuant to the Local Rules, any party may object to this Report and Recommendation by filing with the Clerk of Court and serving on all parties, on or before **May 26, 2005**, written objections which specifically identify the portions of the proposed findings or recommendations to which objection is being made, and a brief in support thereof. A party may respond to the objecting party's brief within ten days after service thereof. All briefs filed under the rules shall be limited to ten pages. A judge shall make a de novo determination of those portions to which objection is made. This Report and Recommendation does not constitute an order or judgment of the District Court, and it is, therefore, not appealable to the Circuit Court of Appeals.